

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

|                                       |   |              |
|---------------------------------------|---|--------------|
| FELIX ROCHA,                          | § |              |
| Petitioner,                           | § |              |
|                                       | § |              |
| v.                                    | § | H-03-CV-3639 |
|                                       | § |              |
| DOUG DRETKE, Director,                | § |              |
| Texas Department of Criminal Justice, | § |              |
| Correctional Institutions Division,   | § |              |
| Respondent.                           | § |              |

**RESPONDENT DRETKE’S OPPOSITION TO  
PETITIONER’S MOTION TO STAY PROCEEDINGS**

Petitioner Felix Rocha is a Texas inmate challenging his state court conviction and death sentence under 28 U.S.C. § 2254. On December 13, 2004, Rocha filed a motion to stay proceedings pending the outcome of the Supreme Court’s certiorari grant in *Medellin v. Dretke*, No. 04-5928. See Docket Entry No. 33. In *Medellin*, the Supreme Court will address whether or to what extent the Court should give effect to decisions from the International Court of Justice, the outcome of which could have an effect on Mexican nationals under a death sentence who were not properly informed of their international rights under the Vienna Convention. See *Case Concerning Avena and other Mexican Nationals (Mexico v. United States)*, 2004 I.C.J. Rep. 128 (Judgment of March 31) (available at [www.icj-cij.org](http://www.icj-cij.org)) (“*Avena*”).

In this case, however, although Rocha is a Mexican national, because the *Avena* court expressly held that “the Mexican consular authorities learned of [Rocha’s] detention in time to provide [] assistance,” Rocha is not entitled to the benefit of the *Medellin* decision, whatever the outcome. See *Avena*, 2004 I.C.J. Rep. 128 at ¶ 104. Accordingly, this Court need not formally stay

the proceedings in this case.

### CONCLUSION

Because a formal stay of proceedings is unnecessary, and in the interest of finality, the respondent asks this Court to deny Rocha's motion to stay proceedings.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of respondent's opposition to petitioner's motion to stay proceedings has been served by e-mail and electronic filing addressed to:

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